

**BEFORE THE STATE BOARD OF MEDIATION  
STATE OF MISSOURI**

ST. LOUIS FIRE FIGHTERS ASSOCIATION, )  
LOCAL NO. 73, INTERNATIONAL ASSOCIATION )  
OF FIREFIGHTERS, AFL-CIO, )

Petitioner, )

v. )

CITY OF ST. LOUIS, MISSOURI, )

Respondent. )

Public Case No. 76-013

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND DECISION**

**FINDINGS OF FACT**

This case appears before the State Board of Mediation upon St. Louis Fire Fighters Association, Local No. 73, International Association of Fire Fighters, AFL-CIO (hereinafter referred to as "Petitioner"), filing a Petition for Certification with this Board for exclusive bargaining rights for all Fire Department employees of the City of St. Louis, (hereinafter referred to as "City"), inclusive of the ranks of Private, Captain, Battalion Chief, Deputy Chief and Fire Alarm employees, all consisting of approximately one thousand (1,000) employees.

The State Board of Mediation has jurisdiction to hear and decide this matter pursuant to Section 105.525 RSMo. 1969, which states in pertinent part:

"Issues with respect to appropriateness of bargaining units and majority representative status shall be resolved by the state board of mediation."

A hearing was conducted by the Board at the St. Louis County Government Center in the City of Clayton, Missouri, at which time the following evidence was adduced.

The Fire Department of the City presently includes the ranks of Fire Chief, Deputy Fire Chief, Fire Marshall, Battalion Fire Chief, Fire Captain, Fire Lieutenant, Fire Prevention Inspector, Fire Fighter and Fire Equipment Dispatchers I, II, III. The Petitioner seeks to represent any and all units which may be found appropriate by this Board. The City has objected to the inclusion in an appropriate unit the positions of Fire Chief, Deputy Fire Chief, Fire Marshall, Battalion Fire Chief, Fire Captain, Fire Lieutenant, and Fire Equipment Dispatchers II and III for the reason that these individuals constitute supervisory personnel. The City contends that an appropriate unit should consist of Fire Prevention Inspector, Fire Fighter, and Fire Equipment Dispatcher I.

A description of the duties of the positions in dispute will be set forth in separate paragraphs in this opinion. The parties have stipulated that the position of Fire Chief be excluded from an appropriate unit, therefore we will not address ourselves to that position.

The Deputy Chief, of which there are four, (one presently serving as the Fire Marshall, whose duties will be described in the following paragraph) is a member of the General Staff of the Chief and assists in the administration of the Department. He is responsible for the effective application of the policy, Rules and Regulations, practices and procedures of the Department. His duties entail responding to multiple alarm fires, directing fire fighting operations, and making decisions regarding the need for additional equipment. Further, he plans, schedules, supervises, and reviews the work of subordinates. He is responsible for making periodic inspections of personnel, quarters, engines, apparatus, tools, equipment, and records; prepares reports of conditions found and makes recommendations. He also reviews and reports upon the work of fire companies at fire drills and the conduct of in-service training programs. He works a

twenty-four hour shift and lives with the other men, but during normal business hours he spends a majority of his time at the Fire Chief's office which is located in City Hall.

The position of Fire Marshall is presently held by a Deputy Chief and is a member of the General Staff of the Chief and assists in administration. This individual is responsible for the effective application of the policy, Rules and Regulations, practices and procedures of the Department in matters relating to fire prevention and fire protection. Further, he plans and supervises the inspection of designated occupancies throughout the City by Inspectors in his command, and he makes such inspections and investigations that may be necessary to evaluate the overall fire hazards in the City. He also has the authority to order subordinate officers to make necessary inspections. He works a five-day, forty-hour week and does not live with the other men.

A Battalion Fire Chief, of which there are presently thirteen of the twenty-three authorized positions, is in charge of the activities of one of the nine fire districts of the City. He has a number of Fire Captains under his command and he in turn reports to the Deputy Chief. He responds to alarms when dispatched, assumes command of fire fighting activities, and positions companies and apparatus for efficient rescue and extinguishment operations. He also has the responsibility of maneuvering the fire personnel under his command within his district so as to maximally utilize the available manpower. In addition, he has the responsibility for the paperwork of his district which includes compiling reports of his Captains, making out various schedules, reports and requisitions. He also has the duty of enforcing division rules, regulations and orders. This individual works a twenty-four hour shift and lives in the fire house during his duty hours with the other men.

The position of Fire Captain, of which there are presently approximately one hundred sixty-one (161) of one hundred seventy-four (174) authorized positions, is in

charge of the activities of a company of fire fighters which comprises approximately four (4) men. It is his responsibility to supervise and motivate the men in his company in all aspects of their jobs. It is his responsibility to insure that all apparatus and equipment to which he is assigned is in top condition, and that the house and quarters be kept clean and orderly. He leads his company at the fire scene. In addition, he handles the administrative duties which include keeping a daily log, preparing various schedules, making fire reports, and rating the men. He also has the responsibility of instructing his men in various aspects of the fire fighting profession. This individual works a twenty-four hour shift and lives in the fire house during his duty hours with the other men.

Fire Equipment Dispatcher III, of which there is one, is responsible for directing the activities of several groups of skilled workers engaged in the installation, maintenance, and repair of a variety of telephone and electrical equipment comprising a municipal alarm and signal communication center, and in the reception and transmission of fire alarm and emergency calls. He plans, assigns, and supervises the work of subordinate supervisors (Equipment Dispatcher II) and employees (Equipment Dispatcher I). He works independently, determining his own procedures, and receives administrative supervision from the Alarm and Signal Superintendent.

Fire Equipment Dispatcher II, of which there are approximately four, is responsible for supervising and participating in the receipt of fire, rescue, and other emergency alarms, and the dispatching of fire fighting equipment. He supervises a crew of dispatchers (Equipment Dispatcher I) on an assigned shift. He is also responsible for posting entries in the section's daily log and reallocates fire fighting equipment to maintain constant coverage of all areas in the City. He works a rotation shift as does Dispatcher I.

The positions of Fire Equipment Dispatcher I, Fire Fighter, and Fire Prevention Inspector are not in issue and therefore will not be mentioned.

### **CONCLUSIONS OF LAW**

Section 105.525 RSMo. 1969 states:

"Issues with respect to appropriateness of bargaining units and majority representative status shall be resolved by the state board of mediation..."

Appropriate unit is defined in Section 105.500 (1) RSMo. 1969 as:

". . . a unit of employees at any plant or installation or in a craft or in a function of a public body which establishes a clear and identifiable community of interest among the employees concerned."

It is the position of this Board that supervisors cannot be included in the same bargaining unit as the employees whom they supervise, because of a lack of community of interest. Therefore, it is necessary to make a determination as to the positions which possess supervisory qualities. In the case of Western Missouri Public Employees, Local 1812 and Missouri State Council 72, AFSCME v. Jackson County, Missouri (Department of Corrections), Public Case No. 90, this Board set forth the factors which are considered in determining whether an employee is a supervisor. They are as follows:

1. The authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employees.
2. The authority to direct and assign the work force.
3. The number of employees supervised, and the number of other persons exercising greater, similar or lesser authority over the same employees.
4. The level of pay, including an evaluation of whether the supervisor is paid for his skill or for his supervision of employees.
5. Whether the supervisor is primarily supervising an activity or is primarily supervising employees.
6. Whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employees.

7. The amount of independent judgment and discretion exercised in the supervision of employees.

Upon a careful review of the duties and responsibilities of the position of Deputy Fire Chief, it is quite clear that he possesses supervisory authority and therefore should be excluded from an appropriate unit of non-supervisory employees. Without going into a detailed review of the Deputy Fire Chief's duties, it can be readily seen that all factors which constitute a supervisor are applicable to this position.

The position of Fire Marshall is excluded from an appropriate unit of non-supervisory employees due to the lack of community of interest this position possesses because of its supervisory identity and further, because of the lack of interchange between this position and that of the other employees. The Fire Marshall does not normally partake in the fighting of fires, nor does he work with or live with the other fire fighters.

This Board has carefully considered the duties and responsibilities surrounding the position of Battalion Fire Chief and is of the opinion that this individual constitutes supervisory personnel for the reasons that the majority of his time is spent in a supervisory capacity. It is true that he works the same shift and lives in the same house as the other fire fighters, however he has the responsibility of an entire fire district with direct authority to assign the work force. It is also true that he may fight a fire along with the other fire fighters, but this would only be in an emergency situation. The evidence is quite clear, therefore, that the position of Battalion Chief is supervisory and is to be excluded from a unit of non-supervisory personnel.

The position of Captains is not one of a supervisory nature as defined by this Board for the reasons that it is questionable as to whether the Captain has the authority to effectively recommend the hiring, promotion or discharge of employees, in this instance Fire Fighters. He supervises a small number of men and the evidence clearly

indicates he is a working supervisor or leadsman. There is a definite showing of a community of interest between the position of Captain and Fire Fighter. They fight the fire together in every aspect, they live together and work the same hours.

The position of Equipment Dispatcher III should be excluded from an appropriate unit of non-supervisory employees because of a lack of community of interest with the related positions of Equipment Dispatcher II and I. The competent and substantial evidence upon the whole record clearly supports this position.

The position of Equipment Dispatcher II, although clothed with the same supervisory activities which would warrant exclusion from an appropriate unit, has sufficient interest with the position of Equipment Dispatcher I so as to permit inclusion. Equipment Dispatcher II supervises a minimal amount of employees and spends his time working side by side the employees he supervises. This Board views the position of Equipment Dispatcher II as that of a lead or working foreman.

It should be noted that no evidence was offered regarding the position of Fire Lieutenant because it exists only as an ordinance classification and as of the date of this hearing it had not been effectuated. This position will be included in an appropriate unit.

### **DECISION**

It is the decision of the State Board of Mediation that an appropriate unit of Fire Department employees of the City of St. Louis is as follows:

All Fire Department employees of the City of St. Louis including the positions of Fire Fighter, Fire Prevention Inspector, Fire Lieutenant, Fire Captain, Fire Equipment Dispatcher I and Fire Equipment Dispatcher II, but excluding the positions of Fire Equipment Dispatcher III, Battalion Fire Chief, Deputy Chief and Fire Chief.

### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the Chairman of the State Board of Mediation among the employees in the unit found appropriate, as early as

possible, but not later than ninety (90) days from the date below. The exact time and place will be set forth in the notice of election to be issued subsequently, subject to the Board's rules and regulations. Eligible to vote are those in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period, because they were out ill or on vacation. Ineligible to vote are employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date. Those eligible shall vote whether (or not) they desire to be represented for the purpose of exclusive recognition by St. Louis Fire Fighters Association, Local No. 73, International Association of Fire Fighters, AFL-CIO.

It is hereby ordered that the City shall submit to the Chairman of the State Board of Mediation, as well as to the Petitioner, within fifteen (15) days from the date of receipt of this decision, an alphabetical list of the employees in the unit determined above to be appropriate who were employed during the designated payroll period.

Entered this 23rd day of February, 1977.

MISSOURI STATE BOARD OF MEDIATION

(SEAL)

/s/ Michael Horn  
Michael Horn, Chairman

/s/ Harry R. Scott  
Harry R. Scott, Employer Member

DISSENTING

/s/ Richard Mantia  
Richard Mantia, Labor Member